

Sam'l W. Green, Esqr. and Family.

LAWS  USAGES,

IN

ALL THE STATES,

IN RELATION TO

THE TAXING OF CHURCHES.

The Taxing of Churches.

Acceding to the desire of those whose generous communications have served as data whereon the following document was mainly based, the undersigned, upon whom was devolved the labor of drawing up, writing out, and presenting the Committee's REPORT to the Diocesan Convention of Central New York, at its late session in Calvary Church, Utica, has thought it would be an acceptable acknowledgment, on his part, of the courtesy experienced from the many and distinguished correspondents to whom he is indebted for the facts thus accumulated, to procure that Report and Digest printed separately from the Journal of the Convention, for their and the Church's benefit. And it is with this view of the case that the Report is herewith presented in pamphlet form, trusting it may serve as a convenient MANUAL for reference, in matters touching mooted questions of interpretation of the various laws, all over this continent, for the exemption of Houses of Divine Worship from public taxation.

By the courtesy of the Rev. Dr. A. B. GOODRICH, Secretary of the Diocese, this Pamphlet has been printed from the type already prepared for the Journal of the Convention.

PHILO WHITE,

Chairman of the late Diocesan Committee on Church Taxation.

Sam'l W. Green, Esq. & Family.



THE TAXING OF CHURCHES.

To the Convention of the Diocese of Central New York:

The undersigned having been appointed by the Convention of last year, a Committee to make inquiry into the nature and extent of the immunities and exemptions to which Church Buildings and Chapels for Divine Worship are entitled by the statutory laws of this State, in the varied assessments for general and local taxation, beg leave respectfully to report:

That, after devoting much time and diligent attention during the past twelve months to the investigation assigned them; and having become satisfied that the subject opened a wider field of inquiry than the terms of the resolution under which they were appointed would seem strictly to imply, they felt warranted in departing somewhat from the letter of their instructions, and have embraced the entire Federal Union, as well as the neighboring Dominion of Canada within the scope of their correspondence. Some three hundred printed circulars of inquiry, with at least half that number of written letters, have accordingly been despatched in quest of information touching the law and usage among the English speaking people on this continent, as to the extent, &c., of the exemptions in favor of Churches, Religious and Charitable Institutions, &c., within each State and Province. And although responses to less than one-half the number of circulars and written letters of inquiry sent out by us have come to hand, yet the communications we have already received contain authentic information from nearly every State in the Union,—all of which it seems have, at one time or another, passed laws exempting from taxation Houses of Worship, Charitable and Educational Institutions, Cemeteries, &c. These exemption laws vary somewhat in manner and form, as well as in degree, according as the fancies of the legislative bodies of the different States that enacted them happened to dictate at the time; and they appear to have been interpreted and carried into effect pretty much as the caprices of the tax officers of the counties, towns, cities and villages, might rule at the moment.

It was this vexatious contrariety of practice and usage among the immediate administrators of our tax-levies, that suggested to the last Convention a reference of this matter to a select Committee, with the hope that the result of their investigation might lead to a more definite and uniform rule of action in all the Parishes of this Diocese, as well as throughout the State.

In view of the present aspect of the case, therefore, the Committee have taken some pains to make out a summary statement of the prominent points of law, and of the usage under it that generally prevails in each of the States of the Union,—and especially as applicable to the enigmatic *status* of the question in our own Diocese and State.

Our summary may appear somewhat diffuse; but we thought, in order to afford a clear view of the whole question, and impart a full understanding of the entire subject, an ample digest of the laws and usages that prevail in all the States, touching the matters submitted to the Committee, would be acceptable to the Convention; and that our non-observance of the wholesome axiom, that "brevity is the soul of wit," might be excused for this occasion.

WITHIN THE DIOCESE.

Among the earliest responses to the Committee's Circular, was that from *St. John's Church, Auburn*, in which the Junior Warden, a gentleman of the legal profession, recites the points of a case in the local court: The City of Auburn vs. *St. John's Church*,—Assessment for re-laying a pavement in front of the Church. Waiving the city's right, under their charter of a subsequent date to the Revised Statutes, to assess all real estate, including churches, &c., that it might bear a due proportion of the expense of such "local improvements" as tended to increase its value,—yet the Vestry resisted the requirement in this instance, as in conflict, not only with the State laws, but was not in conformity with the city ordinances themselves, which had restricted the powers of the corporation in assessments against Churches, &c., to *extraordinary* local improvements, the Vestry contending that the laying of pavements was an *ordinary* improvement in chartered cities and villages. Though the assessment was persisted in by the city authorities, they have never to this day enforced their demand by a levy and sale of the Church's property.

Syracuse.—The Junior Warden of *St. James' Church* informs us, that their Church building, with its lot, has been exempted from State, ordinary and county taxes, yet they have paid the city assessments for streets, sidewalks, &c., and paid every class of taxes on their Rectory.

Elmira.—We learn from the Junior Warden of *Trinity Church*, who is a member of the bar, we understand, that in that city and county it has been the practice to exempt both Church buildings and parsonages, with their lots, from State, county and municipal taxes proper, but to exact assessments from them for beneficial local improvements. Under this ruling, he says, the Churches of this city "have probably, within the last four years, paid some four thousand dollars for assessments of that class, the decision of Attorney General Champlin not being sufficiently relied upon to induce them to resist the demand."

Tioga County.—In this adjoining county, however, the Junior Warden of *Grace Church, Waverly*, who is a Counselor at law, informs us that, after nearly thirty years' experience as Vestryman, &c., and in official connection with municipal, county and judicial affairs, he has never known of any claim to tax what is strictly Church property,—that is a Church edifice and a Rectory on the same lot; and that one Religious Society there paid no tax on their Parsonage, although detached from the Church lot, and not strictly exempt by statute. And this legal gentleman of thirty years' experience, "cannot see how there can be two opinions upon a statute so plain as ours;" expressing it as his belief that the requiring of religious societies to construct streets and sidewalks in front of their Houses of Worship, cannot be enforced against them under the usual municipal charters.

In Broome County, next east of *Tioga*, we learn from the Rector of *Zion Church, Windsor*, and from the Vestry of *St. Luke's Church, Harpersville*, that Houses of Worship and Rectories, with the lots they stand on, have never been taxed or assessed for any purpose whatever, in those villages or their neighborhood.

Sherburne.—The Rector and the Warden inform us, that *Christ Church* in that village, with a lot of five acres of land, has never been troubled with any kind of taxes or assessments. The Parsonage, however, has been assessed the same as other property, and paid the regular taxes.

Sacketts Harbor.—*Christ Church*, with its lot, we learn from a Vestryman, has never paid any other tax or assessment than the cost of repairing the pavement in front of their lot; leaving it to be inferred that the corporate authorities of the village originally constructed it at their own cost.

Antwerp.—*St. Paul's Church*, in that Village, has never been taxed or assessed for anything, so says the Senior Warden.

Manlius.—Regular Houses of Worship, with their lots, have never paid any kind of tax or assessment in this village, but Parsonages, not on Church lots, do pay. An intelligent vestryman of *Christ Church* there, in writing to us, remarks that *St. John's Diocesan School* in that village occupies two lots, *i. e.*, the recitation edifice is on one, while the studying and boarding apartments are on the other. The assessing officers exempt the first, while they tax the latter. Our correspondent dissents from this discrimination, believing that both buildings are entitled to exemption; and, as Treasurer of that Church educational institution, he pays the assessment under protest.

Cazenovia.—We learn from the Senior Warden of *St. Peter's Church*, whose opinion we esteem as equal to an adjudication: "1st, That Houses of Public Worship are exempt from all kinds of taxation and assessment, unless there may be in some city or village charters, passed since the Revised Statutes, provisions subjecting them (the Churches) to assessments for local improvements, such as sidewalks, sewers, &c.; 2d, That parsonages are not exempt from any taxes and assessments, whether they are or are not contiguous to the church building;" but he remarks further, "no taxes or assessments have been levied upon parsonages (in that village) whether on or off the church lot, although the assessors have often threatened to put them on the assessment roll."

Big Flats.—*St. John's Church*, in that village, never paid any tax or assessment. Some years ago Parsonages there were regularly taxed; but for five or six years past, they have been wholly exempt.

Oneida County.—In the city of *Utica*, Churches, educational edifices, and the buildings and realty of charitable institutions, &c., are subjected to what the corporate authorities choose to term "local improvements," the tax officials there recognizing the statutory exemptions as only applicable to State, county and general taxation. Eminent members of the bar there, however, would seem to entertain more rational views of the taxing prerogatives of a city or village municipality, than the corporate officials themselves do.

In Rome, (same county) on the contrary, the councils of that city, prompted by an enlightened spirit of beneficence, obviated all doubtful interpretations of the law, by enacting ordinances which exempt as well Churches as Parsonages from every class of taxes and assessments, whether "local" or otherwise.

From Waterville, the Senior Warden of *Grace Church* writes us, that Houses of Worship, of all denominations, are free from every kind of tax levies or assessments, whether local or extraneous; but that parsonages are enrolled for general taxation.

ELSEWHERE, IN THE STATE.

Diocese of Albany.—The Rt. Rev. the Bishop writes to us that, as a rule, Churches are not, but Parsonages are, taxed throughout his Diocese. The Bishop deplors the indication, at various points, of a sentiment inimical to all immunities in behalf of Religious Institutions; and is apprehensive lest any agitation of the matter may provoke hostile legislation against us.

Cohoes.—Rev. J. H. Hobart Brown, Rector of *St. John's Church*, writes us that the assessments levied by the municipal authorities of his city, on both Church and Educational Institutions there, are quite oppressive; that his Church has just paid \$750 for paving one street,—\$250 for sewerage on another street,—and \$100 for a sewer on still another street! For Cohoes

City High School, of which Dr. Brown is Treasurer, he has paid several large taxes, on account of paving streets, for sewerage, and for water rates. He expresses his own and the vestry's thanks, for the new lights which the investigations of our Committee are bringing to view.

Diocese of Long Island.—The Rt. Rev. Bishop of this Diocese has favored us with a communication in relation to tax assessments on Houses of Worship in the city of Brooklyn, in which he remarks: "I am not aware of any decisions by judicial tribunals here. Parsonages are not taxed with us, nor the Episcopal residence; but large local assessments are levied upon Churches and Parsonages, for paving, sewerage, &c.; so that some of the weak Parishes of the city are fairly staggering under the burden of these assessments for street improvements, which are very heavy, and have here been rigidly enforced."

Rev. Newland Maynard, Rector of a Church in the Eastern District of Brooklyn, writes to us at the suggestion of his Bishop, that the tax officials of that part of the city have made a claim against his parish for flagging, drainage, &c., which has overwhelmed them, financially. Being already deeply involved, it is as much as they can do to pay the interest on their present indebtedness; and they fear this heavy city claim for local improvements, will serve hopelessly to confiscate their House of Worship! We learn further from Mr. Maynard, that the Rev. Dr. Chas. H. Hall, Rector of the *Church of the Holy Trinity, Brooklyn*, refuses to recognize this city tax for flagging, &c., and defies them to collect it by sale of the Church's property. Mr. Maynard likewise understands that the Rev. Dr. T. Stafford Drowne, Rector of *St. Paul's Church, Brooklyn*, has in like manner resisted the payment of similar exactions against his Parish.

New York City.—In the New York Diocese, as well as in that of Western New York, the custom with respect to *special* assessments against Houses of Worship, &c., within the limits of cities and incorporated villages, assimilates nearly to the average usage in the Dioceses of Central New York, Albany and Long Island, already noticed. In New York City, however, there are incidents connected with the question of Church immunity from taxation, peculiar to that metropolis of America, whose vast population, with a marvelous admixture of nationalities, and the fabulous wealth of whose Church heritage, naturally exclude the rulings in her case from any ordinary line of safe precedents.

IN OTHER STATES.

Ohio.—We learn from the Rector of *Trinity Church, Columbus*, and from a Vestryman of *Christ Church, Cincinnati*, who is eminent as a lawyer, that all Houses of Worship, when not used in any part as residences, or for any secular purpose, are exempt from taxation for State and county purposes; but have been subjected, nevertheless, to assessments for sewerage, pavements, &c. Parsonages are taxed in those cities like other property.

Pennsylvania.—We have not received full responses from the three Dioceses in Pennsylvania; yet have sufficient information to assure us of the fact, that Church buildings and their lots are exempt from general taxation, though held amenable to the municipal authorities of cities, boroughs and villages, for assessments on account of hydrant water, and the construction of streets, pavements, &c. The usage as to the taxing of Parsonages varies in different sections of that State.

New Jersey.—Rev. Dr. Edward B. Boggs, of Newark, and the Rev. Dr. George Morgan Hills, of Burlington, the two speaking for New Jersey and Northern New Jersey, inform us that Church buildings, and their necessary lots of land, are exempt by statute from State, county and township taxes, but have been adjudged, in the cities and incorporated villages, as liable to assessments for the construction and repairs of sewers, streets, &c.

Delaware.—Though diminutive in her territorial proportions, yet as vigorous in the punishment of knavery as she is effective in the repression of crime, she is unexcelled by any of her more ponderous sister States for the noble-hearted philanthropy of her people, and their expansive beneficence in fostering all religious institutions within her borders. We were, therefore, prepared to learn, as we do from the Rev. Lewis W. Gibson, Rector of *Christ Church, Dover*, and from James Kirk, Esq., Senior Warden, as well as from a distinguished gentleman at Smyrna, that the State has, by her revised statutes, made a most generous provision for the exemption of Churches, Church property, charitable institutions, &c., from every class of taxation. And as our informants have never heard of any exceptions being taken to these exemptions in all their amplitude, the Churches and charities there are never annoyed by the tax-gatherer.

Maryland.—The status of the question of Church exemption from taxation seems to be equally as commendable in Maryland as in Delaware. By the courtesy of the Rev. Robt. Wilson, M. D., Rector of *St. Peter's Church, Easton*, we are favored with a response to our inquiries from an eminent lawyer of that city, who is a member of Dr. Wilson's Vestry. He states that, by the laws of Maryland, "all Church property, whether Edifices, Rectories or Glebes, is exempt from taxation; and no tax or assessment whatever, whether State or municipal, is levied generally or specially upon any such property;" and "if there is any local departure from this rule, they are not aware of it." Moreover, a clerical error happening in the last tax-law of the State, a test case was mooted before the Court, and a decision rendered, sustaining the settled interpretation of the Church-tax exemption law, to its fullest extent; of which, however, there never had been any question or complaint in that State.

Virginia.—Rev. Dr. Wall, Rector of *St. John's Parish, Richmond*, together with the Vestry of that Church, favor us with the following commendous but satisfactory response to our written inquiries and accompanying circular, viz: "All Church property, including therein Rectories, Church Edifices and Cemeteries, is exempt from taxation by statute law in this State. There is no municipal law, as far as we know, imposing such taxation in Virginia."

North Carolina.—By communications from Hon. Kemp P. Battle, of Raleigh, and John Steel Henderson, Esq., of Salisbury, who are lay officers of the Church in their respective localities, we learn that the revenue laws of that State have for many years exempted Churches, Rectories (or Parsonages) and Glebes from taxation. And although no mention is made in the State laws of special or local assessments, the city of Raleigh claims and exercises the right of levying the expense of sidewalks on that class of property. In most of the other cities and incorporated towns of the State, however, no such assessment for local or special purposes is imposed on Churches.

West Virginia.—We learn from James P. Rogers, Esq., a legal gentleman of prominence, who writes at the suggestion of Rev. J. G. Armstrong, Rector of *St. Matthew's Church, Wheeling*; as also from N. S. White, Esq., Warden of the Church at *Charlestown*, and who is an eminent member of the bar there, that the Constitution, the law and the usage of this newly created State combine to extend to Churches and Parsonages alike an unreserved immunity from all public taxation. In *Wheeling*, as Mr. Rogers informs us, the expenses of streets, pavements, &c., are borne by a general city tax; which precludes the idea of any special assessments on Churches for local improvements. And in *Charlestown*, as we understand from Mr. White, the legislative act of incorporation specially restricts the municipality of that city to the specific grants of power in their charter. As illustrative of this view of the municipal prerogative, Mr. W. says that the Church Parsonage House is on one of the principal streets of the city; and

although the Trustees holding the title to the property are expected to, and do keep up the pavement in front of their lot, no corporation ordinance has ever exacted that expenditure from them. And the prevalent sentiment of that region approves these legislative and municipal acts of Christian philanthropy, in the broadest and most enlightened sense of their refining and happy influences.

Mississippi.—We learn from the Junior Warden of *St. Andrew's Church, Jackson*,—and, also, by a polite note from the Rev. James T. Pickett, Rector of *Christ Church, Holly Springs*,—that Church property has been entirely exempted from taxation in Mississippi, either for State, county or municipal purposes, by that impoverished but nobly philanthropic people. A Church School; St. Thomas' Hall, in Rev. Mr. Pickett's Parish, with ten acres of land, of which his Vestry are Trustees, pays no taxes, neither State nor municipal.

Arkansas.—We have a letter from the Rev. R. W. Trimble, Rector of *Trinity Church, Pine Bluff*,—as also a letter from Ex-Gov. John R. Hampton, of Bradley county,—and likewise a communication from the present Executive of the State, Gov. Alexander H. Garland, accompanied by a copy of the new Constitution of the State of Arkansas, inclosed to us by the last named gentleman. From Art. 16, sec. 5, of this organic law, we learn that Churches and Cemeteries, when used exclusively as such,—Schools with their buildings, apparatus, libraries and grounds—and buildings, grounds and materials used exclusively for public charity; are exempt from taxation. But while this seemingly explicit constitutional exemption exists in form, Gov. Garland remarks in his letter to us, "I think the better opinion is that they (the Churches, &c.) could be taxed for local improvements under municipal ordinances. See Cooley on Cons. Pro's., 3d Ed. p. 514 and notes."

Kansas.—We have a very obliging communication from the Rt. Rev. Bishop Vail, as to the law and usage in Kansas, touching Church exemption from taxation. Church buildings and the plots of ground they stand on, when actually used for public worship, are exempt by statute from taxation. Rectories are likewise exempt when attached to or are on the same lot with the Church, and are not leased for pay. But when Parsonages or Rectories stand on land separate from that of the House of Worship, they are held by judicial decision in that State to be equally taxable with secular property. We are unadvised as to the liability of Church property for local improvements, in the cities and incorporated villages of Kansas.

Missouri.—Having been favored with communications from the Rt. Rev. Bishop Robertson, and the Rev. Dr. Schuyler, Rector of *Christ's Church, St. Louis*, we learn from them, and from other sources, that anterior to 1863, all Church property, including parsonages, was exempt from general taxation in Missouri. Unfortunately, however, such became the demoralized condition of society in that region about that time, incident to the civil war then at its height, that a Constitutional Convention, which was assembled at so inauspicious a conjuncture, for re-modeling their old frame of Government, was, quite naturally, made up of an undue proportion of members of unregulated minds. An organic law emanating from such a body of extreme men, naturally enough agglomerated all Religious, Charitable and Educational Institutions, and even consecrated repositories of the dead, into one common grab-bag of taxable chattels! And it is a source of extreme mortification to all the better classes of her citizens, that Missouri should ever have been jostled into so unenviable a *status*. A more healthful moral sentiment, however, pervades the entire population there now. A new State Constitutional Convention, for re-modeling the former Constitution, has already assembled in that State; and coming as the members do fresh from a now conservative people, they will undoubtedly adopt an organic law in unison with the Christian sentiment of the age. Meanwhile, in ad-

vance of constitutional action in this, to them, new era of enlightened philanthropy, the city corporation of St. Louis, and other municipalities in the State, have already exempted their Religious and Charitable Institutions from general taxation, and only require them to join in local improvements; so that a more auspicious period is now dawning upon the Church in Missouri.

California.—This Pacific State has, by an unfortunate concurrence of circumstances, got the Church into a worse dilemma there, as regards the taxing of Houses of Divine Worship, than Missouri ever did. From the Rev. Wm. H. Hill, and others, we learn, that up to six or seven years ago, Churches and Church property, as well as the buildings and property devoted to benevolent and charitable purposes, &c., were exempt by law from all general and special assessment and taxation. But as certain religious organizations, taking advantage of the liberal terms of the statute, claimed to hold large and valuable tracts of land in the name of the Church, free from taxation under the exemption law;—and as the Constitution of the State provides “that taxation shall be general and equal,”—a case was mooted and carried to the Supreme Court as a test. On this issue the Court held that the exemption law was in conflict with that clause of the Constitution. Since then there has been no discrimination between the taxing of ecclesiastical and secular property in that State; but the good people there are hopeful of a change ere long in this adverse ruling thereon, either by a new or amended organic law, or otherwise.

Tennessee.—We learn from Mr. L. C. Shepherd, Senior Warden of *St. John's Church, Knoxville*, that all Houses of Worship, as well as Parsonages, are exempted by law from State, county or general municipal tax. That city, however, compels all the owners of lots within its limits, without regard to State exemptions, to lay sidewalks in front of their property after the curbing is put down by the corporation at its own expense. What the custom is in other cities of that State, he is uninformed.

Georgia.—John R. Johnson, Esq., Junior Warden of *St. John's Church, Savannah*, and Treasurer of that city, writes us that, “by the Constitution of the State of Georgia, all Churches, Religious Edifices, Parsonages, &c., are exempt from State, county, city and town taxation. Churches in Savannah are only required to pave around the buildings, and keep those pavements in repair.”

South Carolina.—The Rev. Everett C. Edgerton, Rector of *St. Thaddeus' Church, Aiken*, informs us that all Houses for Divine Worship, with two acres of land each, are exempted from State taxation. Parsonages are not exempt by law; but by courtesy, no taxes are exacted from them. So that Churches, and ecclesiastical residences in that otherwise afflicted member of our Federal Republic, enjoy a comfortable immunity from the unwelcome visitations of tax-gatherers.

Alabama.—We learn from Thomas N. McCartney, Esq., Attorney at Law in Mobile, who writes at the suggestion of the Rector of *Christ Church* in that city, that “All Houses used exclusively for public worship, the books and furniture therein, and the grounds upon which the same are or may be erected, not exceeding ten acres,” are exempt from taxation by the statutes of Alabama,—“the construction of sidewalks being included in such exemption, the municipal authorities only requiring them to be kept in order by the owners of the lots facing them,” in the city of Mobile.

Florida.—Rev. R. H. Weller, Rector of *St. John's Church, Jacksonville* informs us that “no assessment for taxes, for either general or special purposes is levied here on Church property of any kind, by either the city or the State. Our Church, the Chapel School Building, and the Rectory, occupy an entire city square, on the front of which the pavement was laid by the city.

Louisiana.—Thomas Layton, Esq., President of the Southern Bank at New Orleans, has favored us with the written opinions of two eminent lawyers of that city, wherein various judicial rulings are cited, analagous to our case. After stating that by statute in Louisiana, "Churches, Parsonages, &c., with their appurtenances, when actually used as such, are exempt from State as well as from municipal taxation in general,"—these legal gentlemen remark: "But this immunity from *all* taxation by the State law, is not held in Louisiana as exempting Churches, &c., from their proportion of the expense of constructing streets and sidewalks, though not liable for the repairs of such sidewalks after they have been once laid. This municipal requirement is not viewed as a "tax," in the common acceptance of that term, but as a "servitude" due for benefits accruing to the property," &c.

Texas.—We learn from the Senior Warden of *Trinity Church, Galveston*, George E. Mann, Esq., that "All buildings, with their furniture and libraries, used solely for public worship, or for educational purposes, with ten acres of land to each, are exempted by statute from taxation in Texas. The city of Galveston, however, requires these exempted institutions to pave the sidewalks in front of their lots; which, without conceding the municipal prerogative in the premises, the Churches have uniformly done, not having yet tested their obligation to do so in the Courts." Moreover, the Rt. Rev. Bishop Alexander Gregg, in writing us a polite note on the subject, after reciting the liberal terms of the Texas exemption law, remarks, that he is "surprised to learn that, in any case, special taxes do not come within the rule of the statutory exemption of Churches," &c.

Nebraska.—We learn from the Mayor of Omaha, who is a lawyer of prominence, that Churches are exempt by statute in that State from general taxation; but that the municipal councils of that city claim the right to assess Churches, and all other real estate within their limits, for beneficial local improvements. And a case is now pending in the Courts there, to test the legality of that claim, which has been preferred by the city.

Minnesota.—We are favored with the main points of the exemption law of this State, by Judge Charles E. Flandrau, an eminent lawyer in St. Paul: "Houses used exclusively for public worship, or for purely charitable purposes, with the necessary plots of ground on which they stand,—as well as the land actually used for Cemeteries, not being owned and sold at individual profit,"—are exempt from taxes, assessments, &c. It seems, however, that the city of St. Paul claims the right to assess every class of real estate within its corporate limits, for local improvements; but their power to do so is contested; and a test case is now pending in the Courts, to determine the extent of the municipal prerogative in that regard. The plaintiff's counsel has politely furnished us with a "Brief," containing the principal points of his client's case, in a printed pamphlet of seventeen octavo pages, wherein, by the citation of a mass of apparently irrefragable authorities and judicial decisions, he demonstrates quite plausibly to a dispassionate and untechnical mind, the illogical reasons upon which the municipality rest their claim to assess those State exempted lands for the grading of streets, &c. In this instance, the statute specifically exempted these lands from "all taxes and assessments" of whatever kind, in consideration of a semi-annual payment to the State. The case was still pending at last accounts.

Wisconsin.—We have communications from State Officers of Wisconsin, and from a leading Professor in the University of the State at Madison, touching the law and usage of Church exemption from taxation there. Houses of Worship, Parsonages, &c., are exempt from general taxation, but subject to municipal assessments for the construction of streets, sidewalks, &c. In 1873, however, so formidable was a movement in the Legislature of that State to repeal all exemption laws, that the aid of the late Rt. Rev. Bishop

Armitage was invoked in behalf of the Church, Schools, Colleges, Grave Yards, &c. And it is believed the very able and elaborate Memorial which that eminent Prelate addressed to the Legislature on the subject, exercised a most potential influence in saving the reputation of that deliberative body, by defeating the consummation of an enactment so discreditable to a Christian people.

Illinois.—From Springfield, the State Capital, we have a full and polite response to our Circular and written letter of inquiry, occupying twelve manuscript pages, from Ex-Gov. Palmer & Brother, Counselors at Law in that city; wherein, after stating the provisions of their Constitution, with regard to exemption laws, and the various Legislative enactments in accordance therewith, they favor us with a clear and instructive citation of litigated cases, legal rulings, and judicial opinions, there and elsewhere, as affecting the exemption laws of that State. In conclusion they remark, that the settled rulings in this matter in Illinois are, in effect, that "special assessments for improvements are held not to be taxes. And hence, in summing up, they say that "Church property is exempted from general taxation, but not from special assessments for public improvements."

Iowa.—The lay Officers of *Trinity Church, Iowa City*, write to us, that "Houses of Worship, of all denominations, and all property used for Church, benevolent and charitable purposes, are exempt from taxation by statute in Iowa;" and that the exemption applies alike within and without cities and incorporated towns and villages.

Maine.—We learn from the Rev. Charles W. Hayes, Canon of the Cathedral Church in Portland, that a "Church building and Parsonage are exempt from general taxation there, but are liable to be assessed by the municipal authorities of cities and incorporated villages, for street improvements, sewerage," &c.

Vermont.—A legal gentleman writes us from *Brattleboro*, that by statute of Vermont, "All real and personal estate, granted, sequestered, or used, for public, pious, or charitable purposes," is exempt from taxation: and that the practical construction of the law has been, in the southern part of that State at least, to exempt Parsonages as well as Churches from every class of taxation or assessment, general as well as municipal." But what the usage in the northern part of the State is, we are unadvised, the Churches at Montpelier and Burlington, neither of them having responded to our letters and circulars.

New Hampshire.—The Rev. Dr. Isaac G. Hubbard, Rector of *Trinity Church, Claremont*, writes us, that, in 1843, the Revised Statutes of that State provided that Houses of Public Worship should thenceforth be exempt from taxation; and by an amendment of those statutes in 1872, Parsonages were added to the list of exemptions. But he cannot learn whether any City municipality (there being no *incorporated* Villages in the State) has, or has not, exercised the prerogative of assessing Churches, &c., for special local purposes.

Connecticut.—From the Rev. Wm. Tatlock, Rector of *St. John's Church, Stamford*, and from John Day Ferguson, Esq., a member of the Vestry of that Church, and a prominent member of the Connecticut Bar, we learn that "Churches, exclusively used for public worship, as well as all buildings pertaining exclusively to literary, scientific, benevolent and ecclesiastical societies, are by the statutes of Connecticut exempt from taxation." By a technical interpretation of those statutes, however, which has been recognised by their highest Courts, cities claim and exercise the right of assessing all such property for special local improvements, but not for general municipal taxation. The taxation of Parsonages was an open question until 1871, when the legislature exempted them, to the amount of \$5,000

each. By a Colonial Statute of 1702, a considerable amount of other kinds of property, given for religious uses, had been exempted from taxation; but that exemption became inoperative by a State law of 1820.

Massachusetts.—Edward S. Rand, Esq., an eminent lawyer, and a Vestryman of *Emmanuel Church, Boston*, has politely favored us, at the suggestion of the Rev. Dr. Alexander H. Vinton, Rector of that Church, with various decisions of the legal tribunals of that State, involving the extent of the immunity from taxation to which Edifices for Divine Worship, for Educational, literary and charitable purposes, &c., are entitled. From all which, it appears that property of that class, though "exempt from taxation for general public purposes of government," is, nevertheless, held "liable to taxation for local improvements of a public nature." And this seems to have been the uniform decision in all cases litigated by the literary and benevolent Institutions of Massachusetts, and which are equally applicable to all Religious Associations.

Rhode Island.—To Roger Williams, Wm. Penn and Lord Baltimore, history awards the honor of founding the first governments on this continent that fully recognized the broad principles of religious toleration. And from accredited chronicles we know that the Rev. Roger Williams had to flee from his native land some two hundred and forty years ago, to escape persecution as a non-conformist Church of England Clergyman, and that he took refuge among the pilgrims at Plymouth Rock, in America. But the ill-omened star of his earthly destiny seems to have followed him in his material transition to a new world. For, presumably imagining that he had then reached a "land of the free and a home of the brave," he intrepidly and eloquently advocated the rights of conscience and of civil liberty, on all fitting occasions; whereby, however, he ere long aroused the bigotry and intolerance of the settlers at Plymouth Rock; who, with an official haste as summary as it was merciless, promulgated a decree of banishment against him, never to return there on pain of death! And this bloody edict was hurled against a brother Pilgrim by the Colonial authorities of those very Puritans who had themselves not long anterior been refugees from the tyranny of their mother country! Thus was he a second time impelled to flee from the despotism of his fellow-countrymen, and to seek an asylum, this time among the untutored Aborigines on Narraganset Bay. And it was only there, beyond the reach of "man's inhumanity to man," that he appears at last to have found the goal of his worldly hopes and long cherished ambition. Thenceforward a marked success attended the far-seeing and benevolent plans of his life. He first conciliated, then subdued and proselyted the "Narragansets." In good time gathering in and establishing a religious organization that now pervades all the States of the Union, he eventually laid the foundations of a Commonwealth, endowing it with the attributes of religion, liberty and law. In view of a historic record so eventful, and of a heritage thus enriched by ennobling examples of manly virtue, of diffusive piety and of heroic action and endurance, bequeathed to his followers and after generations by the renowned "Pioneer Parson," Roger Williams;—it would have been a marvel indeed, had the latter-day patriots of "Rhode Island and Providence Plantations," become so deeply immersed in the piling up of worldly gain, as to surrender their Houses of Worship, and the Cemeteries consecrated to their dead, to the tender mercies of the tax-gatherer, and thus mingle with the promiscuous world in paying tribute to mammon! Accordingly, it is gratifying to know, as we do by communications from the Rev. Dr. Isaac P. White, of Newport, and Rev. W. N. Ackley and Hon. Geo. Lewis Cook, of Warren, that Rhode Island early passed laws for shielding the Houses of God within her borders from desecration by tax-warrants!

But have the sons of "Providence Plantations" ever rescued the fame of their great prototype from the ostracism and attainder cast upon it by the over-righteous Colonists of Plymouth Rock? Does not that despotic edict

for Roger Williams' banishment thence, with a death penalty against his return, remain to this day unexpunged from the records of the ancient Colony of "Massachusetts's Bay?"

Kentucky.—Rev. Wm. M. Pettis, Rector of *Grace Church, Paducah*, informs us, that by statute in Kentucky, Church Buildings, with five acres of land to each, are exempt from taxation, as well within as without the corporate limits of cities and towns; but that the exemption is construed not to apply to Parsonages, unless built on the same lot with an exempted Church edifice.

Indiana.—We learn from one of the Wardens of *Christ Church, Madison*, that by the laws of Indiana, Houses of Public Worship, while exclusively used as such, with ten acres of land to each, are exempt from taxation. Rectories or Parsonages, however, are taxed by the State and the counties; while the city authority of Madison exempts them, as well as the Churches, from all municipal assessments and taxation.

DOMINION OF CANADA.

We have received polite responses to the Circular and accompanying letters we addressed to the Rectors and Lay Officers of several Churches in the cities of Montreal, Kingston, Toronto, &c., in the neighboring Dominion of Canada. The Crown prerogative that blends Church and State under the British Home Government, is inoperative in her Colonies; so that the civil and ecclesiastical polity that prevails in the latter is assimilated to that in our own country. And we find that the usage of exempting Churches, educational and charitable institutions, cemeteries, &c., from municipal taxation, is, if anything, more unsettled there than in the United States. And there appears to be no statute at all in the Province of Quebec on the subject. For example: Dr. Dart, U. S. Consul General at Montreal, and Robert Evans, Esq., a Church Warden there, write us, that up to 1867-68, their Churches had been regularly assessed as other property, and the taxes collected; but when their city corporation last year assessed all religious Institutions for civil purposes, very few of them responded to such assessment by paying the tax, a majority refusing or neglecting to do so. Under these circumstances the city council, by a large majority, resolved to apply to the Quebec Legislature for an Act exempting all Churches and Religious Institutions from taxation. And the question being now before the Provincial Legislature, our correspondents have reason to believe it will be definitively settled by hereafter exempting Church property from taxation throughout the Province of Quebec.

Kingston.—From this city, the Rev. Dr. Edward J. Boswell, D. C. L., writes us a friendly note, stating, among other facts, that "Churches and Parsonages (to the value of \$2,000 each) and Church yards, are by Provincial statute quite exempt from taxation." Also, that the income of all Ministers, up to \$2,000 each, is exempt. "But here, in Kingston," he remarks, "a Synod Hall, built on the Church lot, has to pay the regular tax." But he has "never heard of any attempt to assess Churches for local improvements in that city, as it would not be successful if made." He remarks, however, that these exemptions are unpopular, for the reason that there are those who claim exemption on unreasonable quantities of real estate, under the cover of Church ownership.

Toronto.—We are favored with an obliging communication from the Rev. Dr. William Jones, Professor in Trinity College, Toronto; in which he succinctly but clearly classifies the various objects and methods of taxation, under the financial system of the Province of Ontario. From this interesting exposition we learn that the government there has pursued a most beneficent policy towards Religious Institutions of all kinds. By a Provincial statute places of worship are exempted from every class of taxation, gen-

eral and local; and as the "expense of constructing and repairing streets and sidewalks comes out of a general municipal fund, any special tax is most rare in Toronto, there being only one case within my recollection. The Cathedral in this city stands on a street laid down with an expensive Nicholson block pavement, and a frontage tax was levied on all conterminous property, including the Cathedral lot. And although the special tax warrant was served on the Church Warden of that Parish, he has never paid that frontage tax, nor have the municipal officials ever attempted to enforce payment from the Cathedral property." This question of Church exemption from local and special taxation, however, was generally unsatisfactory to that community; and the Rev. Mr. Jones is of opinion that there will ere long be a legislative amendment of the Provincial statute on the subject, restricting the exemption to Houses of Worship alone, with a reasonable plot of ground for each to stand on. To that extent, he thinks, it would meet the approbation of the people there at large.

CONCLUDING REMARKS.

In presenting the foregoing resumé, or summing up of facts and points touching Church exemption from taxation, as the result of the Committee's twelve months' assiduous correspondence on the subject, they may here be pardoned for adverting to what was well known at the last year's Convention, but which may not be so fully understood by all the delegates now present, that the main object sought by instituting this inquiry, was not so much to complain of the *law*, as to inquire into, and ascertain as near as practicable, what the most current *interpretation* of the law was, and the general *usage* under it, as applicable to that provision of it which exempts Churches and Church property within the limits of cities and incorporated villages from taxation. And it has been the endeavor of the Committee to exercise a careful scrutiny, during this investigation, as to the widely variant interpretations of the law, which seem to have guided the revenue officers in different localities in carrying it into effect.

The teachings and admonitions of the Church have ever been dissuasive of dissensions and unseemly strife in a community; and it is esteemed a cardinal virtue with them, loyally to conform to all legal requirements, and gracefully to bow in obedience to all ordinances of municipal authorities dominant for the time being, when they can be assured precisely what those requirements are.

To the consideration of this point the Committee's attention has been especially devoted. And it may be learned from their foregoing summary or digest of cases, that the statute of our State on the subject is apparently couched in terms readily understood; but it will be seen from these cases, that there is a wonderful contrariety of practice in carrying out the provisions of that statute within the jurisdiction of the municipal authorities of cities and villages.—while outside their corporate limits, no tax has ever been levied on Churches proper; and among the rural Parishes throughout the State, there has never been any difference of opinion as to the law's exempting all Churches from taxation.

Hence it appears that the whole difficulty is narrowed down to the question, whether municipal prerogative is paramount to the plain utterances of organic law and of statutory enactment, so far as local tax assessments are concerned. For it will be seen, from the points we have embodied, that judicial action and rulings preponderate in favor of the municipalities, especially where the charters of the latter bear more recent date than the statute with whose provisions they seem to come in conflict. We may cite one instance in particular, where Gov. Garland, of Arkansas, who is as eminent for his legal attainments as for his personal probity, has given us his individual opinion, that notwithstanding the new Constitution of his State itself provides in explicit terms for the exemption of Houses of Worship, &c., from taxation in general, this and every other class of property can be taxed by municipal ordinance for local improvements. The gener-

ality of these rulings in so many extremely doubtful cases, is quite a marvel to untechnical minds. This point, then, would seem to be definitively settled,—that municipal councils of cities and villages are constructively endowed, by some occult “right of eminent domain,” *and otherwise*, with the prerogative of taxing Churches within their corporate limits, for such “local improvements” as may tend to enhance the value of the property in a secular sense,—any constitutional provision, or legislative enactment, to the contrary notwithstanding !

This is rather an uncomfortable aspect of our case; and it is with exceeding regret the Committee are constrained to acknowledge, that their lengthened and diligent investigation has eventuated in nothing more consolatory to those feeble Parishes whose wail is heard for relief, than a patient and Christian-like submission to the tender mercies of those corporate entities, who are conscienceless because soulless,—whose proclivity for prerogative is insatiable, and whose appetite for debt and taxation is equally inappetisable,—being imbued, as they seem to be, with a kind of morbidness of appetite which, by some inexplicable *inversion* of the law of dietetics, the more you feed it the hungrier it grows !

We have high authority (the Governor of our own State) for viewing with alarm the pretentious claims of municipal power, the potentiality of whose assumptions of prerogative have well nigh absorbed all organic and statutory law, within their corporate limits ! And it needs not the presence of a Shakespeare to tell “whose meat they feed upon,” that these corporate bodies should have attained a growth so abnormal in its proportions ! The subtleties of judicial rulings, as shown in our digest, may indicate, in part at least, the sustenance upon which municipal power has increased to such an unseemly magnitude !

Houses of Worship are mostly located in cities and villages; and although they may be exempt from State, county, and general taxation, yet the special assessments to which they are subjected by their local councils, are, according to Governor Tilden’s estimate, three or four times larger and more oppressive, than the aggregate of all other taxes for the support of the government.

The Committee are at a loss to suggest a remedy for these hardships. Judicious men and safe counselors, however, are of opinion that the most effective and surest reform would be found in a vigilant exercise of the right of suffrage, and a harmonious and unpartizan union of all the best citizens, at each recurrence of these civic elections. By a rigid adherence to such a course, we think the municipal councils of cities and villages might be constituted of pure and energetic men,—citizens of honor and honesty, of property and probity,—in whose good character and capacity, society would have a guarantee that their official acts and ordinances would tend to promote morality and economy, encourage education and enterprise, and generally to advance the best interests of religion, liberty and law, within their sphere.

A course of policy thus harmonious, practical, judicious and philanthropic could not fail, it seems to us, to work out in good time a great municipal reform in these “Home” Primary Governments. And as the readiest relief we now see, is attainable through the beneficent agency of these reformed local tribunals, we cherish a hope that equal and exact justice would, under a new era, be meted to all classes of people within their jurisdiction, whether immediately connected with Church or State; and a uniform rule of interpreting and administering the law, and dispensing its blessings, be made more certain in all the cities and incorporated villages of our Diocese, and throughout the State.

Respectfully submitted,

PHILO WHITE,	} Committee.
JOSIAH T. MILLER,	
J. V. H. SCOVILL,	

